

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 922

Introduced by Schrock, 38

Read first time January 8, 2004

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-201, 77-202, 77-1343, and 79-1016, Reissue Revised
3 Statutes of Nebraska; to exempt agricultural personal
4 property from property taxation; to change valuation of
5 agricultural and horticultural land; to harmonize
6 provisions; to provide an operative date; and to repeal
7 the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-201. (1) Except as provided in subsection (2) of this
4 section, all real property in this state, not expressly exempt
5 therefrom, shall be subject to taxation and shall be valued at its
6 actual value.

7 (2) Agricultural land and horticultural land as defined
8 in section 77-1359 shall constitute a separate and distinct class
9 of property for purposes of property taxation, shall be subject to
10 taxation, unless expressly exempt from taxation, and shall be
11 valued at ~~eighty~~ eighty-five percent of its actual value.

12 (3) Tangible personal property, not including motor
13 vehicles registered for operation on the highways of this state,
14 shall constitute a separate and distinct class of property for
15 purposes of property taxation, shall be subject to taxation, unless
16 expressly exempt from taxation, and shall be valued at its net book
17 value. Tangible personal property transferred as a gift or devise
18 or as part of a transaction which is not a purchase shall be
19 subject to taxation based upon the date the property was acquired
20 by the previous owner and at the previous owner's Nebraska adjusted
21 basis. Tangible personal property acquired as replacement property
22 for converted property shall be subject to taxation based upon the
23 date the converted property was acquired and at the Nebraska
24 adjusted basis of the converted property unless insurance proceeds
25 are payable by reason of the conversion. For purposes of this
26 subsection, (a) converted property means tangible personal property
27 which is compulsorily or involuntarily converted as a result of its
28 destruction in whole or in part, theft, seizure, requisition, or

1 condemnation, or the threat or imminence thereof, and no gain or
2 loss is recognized for federal or state income tax purposes by the
3 holder of the property as a result of the conversion and (b)
4 replacement property means tangible personal property acquired
5 within two years after the close of the calendar year in which
6 tangible personal property was converted and which is, except for
7 date of construction or manufacture, substantially the same as the
8 converted property.

9 Sec. 2. Section 77-202, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-202. (1) The following property shall be exempt from
12 property taxes:

13 (a) Property of the state and its governmental
14 subdivisions to the extent used or being developed for use by the
15 state or governmental subdivision for a public purpose. For
16 purposes of this subdivision, public purpose means use of the
17 property (i) to provide public services with or without cost to the
18 recipient, including the general operation of government, public
19 education, public safety, transportation, public works, civil and
20 criminal justice, public health and welfare, developments by a
21 public housing authority, parks, culture, recreation, community
22 development, and cemetery purposes, or (ii) to carry out the duties
23 and responsibilities conferred by law with or without
24 consideration. Public purpose does not include leasing of property
25 to a private party unless the lease of the property is at fair
26 market value for a public purpose. Leases of property by a public
27 housing authority to low-income individuals as a place of residence
28 are for the authority's public purpose;

1 (b) Unleased property of the state or its governmental
2 subdivisions which is not being used or developed for use for a
3 public purpose but upon which a payment in lieu of taxes is paid
4 for public safety, rescue, and emergency services and road or
5 street construction or maintenance services to all governmental
6 units providing such services to the property. Except as provided
7 in Article VIII, section 11, of the Constitution of Nebraska, the
8 payment in lieu of taxes shall be based on the proportionate share
9 of the cost of providing public safety, rescue, or emergency
10 services and road or street construction or maintenance services
11 unless a general policy is adopted by the governing body of the
12 governmental subdivision providing such services which provides for
13 a different method of determining the amount of the payment in lieu
14 of taxes. The governing body may adopt a general policy by
15 ordinance or resolution for determining the amount of payment in
16 lieu of taxes by majority vote after a hearing on the ordinance or
17 resolution. Such ordinance or resolution shall nevertheless result
18 in an equitable contribution for the cost of providing such
19 services to the exempt property;

20 (c) Property owned by and used exclusively for
21 agricultural and horticultural societies;

22 (d) Property owned by educational, religious, charitable,
23 or cemetery organizations, or any organization for the exclusive
24 benefit of any such educational, religious, charitable, or cemetery
25 organization, and used exclusively for educational, religious,
26 charitable, or cemetery purposes, when such property is not (i)
27 owned or used for financial gain or profit to either the owner or
28 user, (ii) used for the sale of alcoholic liquors for more than

1 twenty hours per week, or (iii) owned or used by an organization
2 which discriminates in membership or employment based on race,
3 color, or national origin. For purposes of this subdivision,
4 educational organization means (A) an institution operated
5 exclusively for the purpose of offering regular courses with
6 systematic instruction in academic, vocational, or technical
7 subjects or assisting students through services relating to the
8 origination, processing, or guarantying of federally reinsured
9 student loans for higher education or (B) a museum or historical
10 society operated exclusively for the benefit and education of the
11 public. For purposes of this subdivision, charitable organization
12 means an organization operated exclusively for the purpose of the
13 mental, social, or physical benefit of the public or an indefinite
14 number of persons; and

15 (e) Household goods and personal effects not owned or
16 used for financial gain or profit to either the owner or user.

17 (2) The increased value of land by reason of shade and
18 ornamental trees planted along the highway shall not be taken into
19 account in the valuation of land.

20 (3) Tangible personal property which is not depreciable
21 tangible personal property as defined in section 77-119 shall be
22 exempt from property tax.

23 (4) Motor vehicles required to be registered for
24 operation on the highways of this state shall be exempt from
25 payment of property taxes.

26 (5) Business and agricultural inventory shall be exempt
27 from the personal property tax. For purposes of this subsection,
28 business inventory includes personal property owned for purposes of

1 leasing or renting such property to others for financial gain only
2 if the personal property is of a type which in the ordinary course
3 of business is leased or rented thirty days or less and may be
4 returned at the option of the lessee or renter at any time and the
5 personal property is of a type which would be considered household
6 goods or personal effects if owned by an individual. All other
7 personal property owned for purposes of leasing or renting such
8 property to others for financial gain shall not be considered
9 business inventory.

10 (6) Any personal property exempt pursuant to subsection
11 (2) of section 77-4105 shall be exempt from the personal property
12 tax.

13 (7) Livestock shall be exempt from the personal property
14 tax.

15 (8) Agricultural personal property shall be exempt from
16 the personal property tax.

17 Sec. 3. Section 77-1343, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-1343. The purpose of sections 77-1343 to 77-1348 is
20 to provide a special valuation for qualified agricultural or
21 horticultural land so that the current assessed valuation of the
22 land for property tax purposes is the value that the land would
23 have without regard to the value the land would have for other
24 purposes or uses. For purposes of sections 77-1343 to 77-1348:

25 (1) Agricultural or horticultural land means that land as
26 defined in section 77-1359;

27 (2) Agricultural or horticultural use means the use of
28 land as defined in section 77-1359, so that incidental use of the

1 land for nonagricultural or nonhorticultural purposes shall not
2 disqualify the land;

3 (3) Lessee means a person leasing agricultural or
4 horticultural land from a state or governmental subdivision which
5 is an owner that is subject to taxation under section 77-202.11;

6 (4) Owner means an owner of agricultural or horticultural
7 land who holds an estate in fee simple or for life, any one of
8 tenants in common or joint tenants who hold an estate in fee simple
9 or for life, or the purchaser of agricultural or horticultural land
10 under a contract for sale;

11 (5) Recapture valuation means ~~eighty~~ eighty-five percent
12 of the actual value of the land pursuant to section 77-112;

13 (6) Special valuation means ~~eighty~~ eighty-five percent of
14 the value that the land would have for agricultural or
15 horticultural purposes or uses without regard to the actual value
16 the land would have for other purposes or uses;

17 (7) Taxpayer means the owner or lessee that is
18 responsible for paying the property taxes levied on an item of real
19 property; and

20 (8) Zoned for agricultural or horticultural use means
21 designation of any land predominantly for agricultural or
22 horticultural use by any political subdivision pursuant to sections
23 19-924 to 19-933, Chapter 14, article 4, Chapter 15, article 9,
24 Chapter 16, article 9, Chapter 17, article 10, or Chapter 23,
25 article 1. The primary objective of the agricultural or
26 horticultural use zoning shall be to preserve and protect
27 agricultural activities and the potential for the agricultural,
28 horticultural, or open use of land. Uses to be allowed on such

1 lands include primarily agricultural-related or
2 horticultural-related uses, and nonagricultural or nonhorticultural
3 industrial, commercial, or residential uses allowed on such lands
4 shall be restricted so that they do not conflict with or detract
5 from this objective.

6 Sec. 4. Section 79-1016, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 79-1016. (1) On or before August 25, the county assessor
9 shall certify to the Property Tax Administrator the total taxable
10 value by school district in the county for the current assessment
11 year on forms prescribed by the Property Tax Administrator. On or
12 before October 10, the Property Tax Administrator shall compute and
13 certify to the State Department of Education the adjusted valuation
14 for the current assessment year for each class of property in each
15 school district and each local system. The adjusted valuation of
16 property for each school district and each local system, for
17 purposes of determining state aid pursuant to the Tax Equity and
18 Educational Opportunities Support Act, shall reflect as nearly as
19 possible state aid value as defined in subsection (2) of this
20 section. The Property Tax Administrator shall also notify each
21 school district and each local system of its adjusted valuation for
22 the current assessment year by class of property on or before
23 October 10. Establishment of the adjusted valuation shall be based
24 on the determination of the level of value for each school district
25 from an analysis of the comprehensive assessment ratio study or
26 other studies developed by the Property Tax Administrator, in
27 compliance with professionally accepted mass appraisal techniques,
28 as required by section 77-1327. The Property Tax Administrator

1 shall adopt and promulgate rules and regulations setting forth
2 standards for the determination of level of value for school aid
3 purposes.

4 (2) For purposes of this section, state aid value means:

5 (a) For real property other than agricultural and
6 horticultural land, one hundred percent of market value;

7 (b) For agricultural and horticultural land, ~~eighty~~
8 eighty-five percent of market value as provided in sections 77-1359
9 to 77-1363. For agricultural and horticultural land that receives
10 special valuation pursuant to section 77-1344, one hundred percent
11 of special valuation as defined in section 77-1343; and

12 (c) For personal property, the net book value as defined
13 in section 77-120.

14 (3) On or before November 10, any local system may file
15 with the Property Tax Administrator written objections to the
16 adjusted valuations prepared by the Property Tax Administrator,
17 stating the reasons why such adjusted valuations are not the
18 valuations required by subsection (2) of this section. The
19 Property Tax Administrator shall fix a time for a hearing. Either
20 party shall be permitted to introduce any evidence in reference
21 thereto. On or before January 1, the Property Tax Administrator
22 shall enter an order modifying or declining to modify, in whole or
23 in part, the adjusted valuations and shall certify the order to the
24 State Department of Education. Modification by the Property Tax
25 Administrator shall be based upon the evidence introduced at
26 hearing and shall not be limited to the modification requested in
27 the written objections or at hearing. The final determination of
28 the Property Tax Administrator may be appealed to the Tax

1 Equalization and Review Commission in accordance with the Tax
2 Equalization and Review Commission Act.

3 (4) On or before November 10, any local system or county
4 official may file with the Property Tax Administrator a written
5 request for a nonappealable correction of the adjusted valuation
6 due to clerical error or, for agricultural and horticultural land,
7 assessed value changes by reason of land qualified or disqualified
8 for special use valuation pursuant to sections 77-1343 to 77-1348.
9 For purposes of this subsection, clerical error means transposition
10 of numbers, allocation of value to the wrong school district,
11 mathematical error, and omitted value. On or before the following
12 January 1, the Property Tax Administrator shall approve or deny the
13 request and, if approved, certify the corrected adjusted valuations
14 resulting from such action to the State Department of Education.

15 (5) No injunction shall be granted restraining the
16 distribution of state aid based upon the adjusted valuations
17 pursuant to this section.

18 (6) A school district whose state aid is to be calculated
19 pursuant to subsection (4) of this section and whose state aid
20 payment is postponed as a result of failure to calculate state aid
21 pursuant to such subsection may apply to the state board for
22 lump-sum payment of such postponed state aid. Such application may
23 be for any amount up to one hundred percent of the postponed state
24 aid. The state board may grant the entire amount applied for or
25 any portion of such amount. The state board shall notify the
26 Director of Administrative Services of the amount of funds to be
27 paid in a lump sum and the reduced amount of the monthly payments.
28 The Director of Administrative Services shall, at the time of the

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1 next state aid payment made pursuant to section 79-1022, draw a
2 warrant for the lump-sum amount from appropriated funds and forward
3 such warrant to the district.

4 Sec. 5. This act becomes operative on January 1, 2005.

5 Sec. 6. Original sections 77-201, 77-202, 77-1343, and
6 79-1016, Reissue Revised Statutes of Nebraska, are repealed.